CLERK'S COPY.

TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1930

No. 96

DISTRICT OF COLUMBIA, PETITIONER,

vs.

WILLIAM H. COLTS

ON WRIT OF CERTIORARI TO THE COURT OF APPEALS OF THE DISTRICT OF COLUMBIA

PETITION FOR CERTIORARI FILED APRIL 28, 1930

CERTIORARI GRANTED MAY 26, 1930

(34,988)

( )

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1929

No.

DISTRICT OF COLUMBIA, PETITIONER,

vs.

WILLIAM H. COLTS

ON PETITION FOR WRIT OF CERTIORARI TO THE COURT OF APPEALS OF THE DISTRICT OF COLUMBIA

INDEX

	Original	Print
Proceedings in Court of Appeals of District of Columbia...	1	1
Caption.....(omitted in printing)..	1	
Record from police court of District of Columbia.....	1	1
Docket entries.....	1	1
Information	2	2
Recognizance on writ of error..(omitted in printing)..	4	
Bill of exceptions and order settling same.....	6	3
Assignment of error.....	8	6
Designation of record.....	9	6
Writ of error.....	10	7
Clerk's certificate.....(omitted in printing)..	11	
Argument and submission.....(omitted in printing)..	12	
Opinion, Robb, J.....	14	8
Judgment	22	15
Designation of record.....	23	15
Clerk's certificate.....(omitted in printing)..	24	
Order allowing certiorari.....		17

[fols. a-1] [Caption omitted]

IN POLICE COURT OF THE DISTRICT OF COLUMBIA,

JULY TERM, 1929

McMahon, Judge

No. 172,464

DISTRICT OF COLUMBIA

vs.

WILLIAM H. COLTS

Information for Reckless Driving

DOCKET ENTRIES

Be it remembered, That in the Police Court of the District of Columbia, at the City of Washington, in the said District, at the times hereinafter mentioned, the following papers were filed and proceedings had in the above entitled cause, to wit:

July 20, 1929.—Information filed; case continued to July 22, 1929. Case continued to August 6, 1929.

August 6, 1929.—Plea Not Guilty. Jury trial demanded. Jury trial not granted. Judgment Guilty. Sentence: To be committed to the Washington Asylum and Jail for the term of Thirty Days. Exceptions noted and notice given of applying to the Court of Appeals for Writ of Error.

Recognizance in the sum of $500 entered into on writ of error to Court of Appeals D. C. upon the condition that in the event of the denial of the application for a writ of error, the defendant will, within five days next after the expira-

[fol. 2] tion of ten days appear in Police Court and abide by and perform its judgment and that in the event of the granting of such writ of error, the defendant will appear in the Court of Appeals of the District of Columbia and abide by and perform its judgment in the premises.

I. B. JONES,
Surety.

August 9, 1929.—Bill of Exceptions submitted.

Sept. 5, 1929.—Bill of Exceptions settled, signed, sealed and filed.

Sept. 17, 1929.—Writ of Error received from Court of Appeals.

Sept. 18, 1929.—Assignment of Errors filed. Designation of record filed Sept. 24, 1929. Copy of record and proceedings in this case, together with Writ of Error, transmitted to Court of Appeals in obedience to said writ.

IN POLICE COURT OF THE DISTRICT OF COLUMBIA

INFORMATION

THE DISTRICT OF COLUMBIA, ss:

William W. Bride, Esq., Corporation Counsel, by Stanley DeNeale, Assistant Corporation Counsel, who for the District of Columbia prosecutes in this behalf in his proper person, comes here into Court, and causes the court to be informed, and complains that William H. Colts, late of the District of Columbia, aforesaid, on the 19th day of July, in the year A. D. nineteen hundred and twenty-nine, in the District of Columbia, aforesaid, and on O Street, southeast, and on divers other streets, did then and there operate a certain motor vehicle at a greater rate of speed than twenty-two miles an hour over said public highway recklessly, that is to say at a greater rate of speed than was reasonable and proper, having regard to the width of said public highway, the use thereof, and the traffic thereon, in such manner and condition so as to endanger property and individuals, contrary to and in violation of an Act of Congress, the Traffic Regulations in such case made and provided, and constituting a law of the District of Columbia.

(Signed) William W. Bride, Corporation Counsel,
by S. DeNeale, Assistant Corporation Counsel.

[fol. 3] Personally appeared M. Znamenacek this 20th day of July, A. D. 1929, and made oath before me that the facts set forth in the foregoing information are true, and those stated upon information received he believes to be true.

(Signed) C. H. Driscoll, Deputy Clerk, Police Court
of the District of Columbia.

[Endorsed:] McMahon, Judge. Col. Bond. No. 172,464. Information. Traffic. District of Columbia vs. William H. Colts. Address: 415 8th St. S. E. Permit Number: 127,501. Notified to appear in Court at 9. Reckless driving. O'Connell. Witnesses: M. Znamenacek, John E. Coffery, Grant Richardson, Bruce Strong. Filed July 20th, 1929. F. A. Sebring, Clerk Police Court D. C. July 20, 1929, cont. 7/22/29. 300. I. B. Jones. 8/6/29. Rec. cont. to Aug. 6, 1929, 11 A. M. S. DeNeale. 8/6/29, P. N. G. Jury trial demanded. Jury trial not granted. Aug. 6th, 1929, 30 C. days. E. W. H. Exception noted. Intention given of applying to Court of Appeals for writ of error. Bond $500. C. Appeal bond 500. I. B. J. Recognizance in the sum of $500.00 entered into on writ of error to Court of Appeals D. C. upon the condition that in the event of the denial of the application for a writ of error, the defendant will, within five days next after the expiration of ten days appear in Police Court and abide by and perform its judgment and that in the event of the granting of such writ of error, the defendant will appear in the Court of Appeals of the District of Columbia and abide by and perform its judgment in the premises. I. B. Jones, surety. August 9th, 1929, bill of exceptions submitted. Aug. 21st, 1929, time for signing bill of exceptions extended to Sept. 5th, 1929. Sept. 5th, 1929, bill of exceptions settled, signed, and filed. Sept. 17, 1929, writ of error received from Court of Appeals. Sept. 18, 1929, assignment of errors filed, designation of record filed. Copy of record and proceedings in this case, together with writ of error, transmitted to Court of Appeals in obedience to said writ.

[fols. 4 & 5] Recognizance on writ of error for $500.00, approved and filed August 6, 1929, omitted in printing.

[fol. 6] In Police Court of the District of Columbia

[Title omitted]

Bill of Exceptions and Order Settling Same—Filed Sept. 5, 1929

Be it remembered that upon the trial of this case on the 6th day of August, 1929, before the Honorable John P. Mc-

Mahon in the District of Columbia Branch of the Police Court of the District of Columbia, to maintain the issues on its part joined, the District of Columbia produced the following evidence and the following proceedings were had:

That on the 20th day of July, 1929, an information was filed against the defendant, William H. Colts, by the District of Columbia, in the name of William W. Bride, Corporation Counsel in and for the District of Columbia, which information charged that the defendant, William H. Colts, in the District of Columbia, on the 19th day of July, 1929, did, in the District of Columbia, on O Street, Southeast, and on divers other streets, then and there operate a certain motor vehicle over said public highways recklessly, that is to say at a greater rate of speed than was reasonable and proper, having regard to the width of said public highway, the use thereof, and the traffic thereon, in such manner and condition so as to endanger property and individuals, contrary to and in violation of an Act of Congress in such case made and provided, and constituting a law of the District of Columbia.

That on the 6th day of August, 1929, the defendant was arraigned and entered a plea of not guilty and moved the court that the be tried before a jury, which motion was overruled and an exception noted, and the defendant was thereupon put to trial before the judge without a jury. The Court adjudged the defendant guilty and sentenced him to serve a term of thirty (30) days in the Washington Asylum and Jail in the District of Columbia.

The District of Columbia, to maintain the issue upon its part joined, called as a witness Officer MILES ZNAMENACEK, [fol. 7] of the Metropolitan Police Department of the District of Columbia, who testified substantially:

That his attention was attracted by the defendant driving an automobile north on Anacostia Bridge and attempting to pass to the right of a truck; that the defendant was unable to pass said truck on the right, and then pulled over and passed to the left of said truck; that witness turned around on his motorcycle and pursued defendant; that defendant increased his speed to about thirty-eight (38) miles per hour, zigzagging from one side of the street to the other; that the officer followed, blowing his horn continuously; that at the intersection of Eleventh and O Streets,

Southeast, the defendant turned his automobile to the right into O Street, opened the left door, jumped out of the automobile and ran away; that defendant's automobile continued moving on O Street and collided with a loud crash with a Ford truck which was parked on the south side of O Street, about sixty (60) feet from Eleventh Street, pushing said truck about five (5) feet and damaging a box on the body of said truck; that both front fenders of the Chevrolet automobile driven by defendant were smashed by the collision; that after a considerable chase witness apprehended defendant about a block and a half from the scene of the collision; that eighteen (18) boxes of whiskey were found in the Chevrolet automobile operated by defendant; that defendant stated that his reason for driving as he did was that he was trying to get away.

The District of Columbia, to further maintain the issue upon its part joined, called as a witness Officer BRUCE STRONG, of the Metropolitan Police Department, who testified in substance as follows:

That he was walking south on Eleventh Street, Southeast, when he heard the blowing of a horn and saw defendant's automobile coming north on Eleventh Street just north of Anacostia Bridge; that he could not say how fast defendant's automobile was traveling; that he saw Officer Znamenacek on a motorcycle chasing defendant's automobile; that the defendant continued north in the automobile until he reached O Street, a distance of about a block from the bridge; that witness saw defendant's automobile turn east into O Street and then witness heard a crash and ran around the corner into O Street and saw defendant's automobile [fol. 8] and a truck, with which defendant's automobile had collided; that witness waited upon the scene and shortly thereafter Office Znamenacek appeared with the defendant; that the defendant was placed in the automobile and shortly thereafter was taken to the station house.

This is the substance of all of the evidence, no evidence having been offered on behalf of the defendant.

The Court having found the defendant guilty, the defendant again noted his exception to the refusal of the Court to grant him a jury trial, which is the only exception noted in the case.

The Court hereby certifies that the foregoing is the substance of the proceedings to which exception was duly noted, upon which the defendant was convicted.

The defendant now tenders this, his Bill of Exceptions herein, and prays that the same be signed, sealed, enrolled and made a part of the record in this case nunc pro tunc, this 5th day of September, A. D. 1929, which is accordingly done.

(Signed) John P. McMahon, Judge Police Court, D. C.

[File endorsement omitted.]

IN POLICE COURT OF THE DISTRICT OF COLUMBIA

[Title omitted]

ASSIGNMENT OF ERRORS—Filed Sept. 18, 1929

The court erred

1. In refusing the motion of the defendant for a trial by jury.

Whelan & O'Connell, by W. B. O'Connell, Attorneys for Defendant.

[fol. 9] [File endorsement omitted.]

IN POLICE COURT OF THE DISTRICT OF COLUMBIA

[Title omitted]

DESIGNATION OF RECORD—Filed Sept. 18, 1929

The clerk will please make up the record for the Court of Appeals to consist of the following:

1. The information.
2. Plea.

3. Motion for a jury trial.
4. The verdict.
5. Appeal noted.
6. Appeal bond.
7. Bill of Exceptions submitted.
8. Bill of Exceptions.
9. Assignment of Errors.
10. This designation of record.

Whelan & O'Connell, by W. B. O'Connell, Attorneys for Defendant.

[File endorsement omitted.]

[fol. 10] IN POLICE COURT OF DISTRICT OF COLUMBIA

WRIT OF ERROR—Filed Sept. 17, 1929

UNITED STATES OF AMERICA, ss:

The President of the United States to the Honorable John P. McMahon, Judge of the Police Court of the District of Columbia, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said Police Court, before you, between District of Columbia, Plaintiff, and William H. Colts, Defendant, Information No. 172,464, a manifest error hath happened, to the great damage of the said Defendant, as by his complaint appears. We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Court of Appeals of the District of Columbia, together with this writ, so that you have the same in the said Court of Appeals, at Washington, within 15 days from the date hereof, that the record and proceedings aforesaid being inspected, the said Court of Appeals may cause further to be done therein to correct that error, what of right and according to the laws and customs of the United States should be done.

Witness the Honorable George E. Martin, Chief Justice of the said Court of Appeals, the 17th day of September, in the year of our Lord one thousand nine hundred and twenty-nine.

Henry W. Hodges, Clerk of the Court of Appeals of the District of Columbia, by Moncure Burke, Deputy Clerk. (Seal Court of Appeals, District of Columbia.)

Allowed by George E. Martin, Chief Justice of the Court of Appeals of the District of Columbia.

[fol. 11] [File endorsement omitted.]

Clerk's certificate to foregoing transcript omitted in printing.

[fols. 12 & 13] Minute entries of argument and submission January 7 and 8, 1930, omitted in printing.

[fol. 14] IN COURT OF APPEALS OF THE DISTRICT OF COLUMBIA

No. 5050

WILLIAM H. COLTS, Plaintiff in Error,

vs.

DISTRICT OF COLUMBIA

(Before Martin, Chief Justice, and Robb and Van Orsdel, Associate Justices)

OPINION—Filed Feb. 4, 1930

Mr. Justice ROBB delivered the opinion of the Court:

Writ of error to the Police Court involving the question whether one charged with reckless driving on a city street is entitled to a jury trial.

In an information, it was charged that Colts, on the 19th of July, 1929, "on O Street, Southeast, and on divers other

streets" in the District of Columbia, "did then and there operate a certain motor vehicle at a greater rate of speed than twenty-two miles an hour over said public highway recklessly, that is to say at a greater rate of speed than was reasonable and proper, having regard to the width of said public highway, the use thereof, and the traffic thereon, in such manner and condition so as to endanger property and individuals, contrary to and in violation of an Act of Congress, the Traffic Regulations in such case made and provided, and constituting a law of the District of Columbia."

He requested a trial by jury, which was denied. A trial before the court resulted in his conviction and sentence to thirty days imprisonment.

Section 9 of the District of Columbia Traffic Act of March 3, 1925; 43 Stats. 1119, 1123, as amended by Section 5 of the Act of July 3, 1926; 44 Stats. 812, 814, under the heading "Speeding and Reckless Driving," provides:

"(a) No vehicle shall be operated upon any public highway in the District at a speed greater than twenty-two miles per hour except in such outlying districts and upon such highways as the director may designate. * * *

[fol. 15] "(b) No individual shall operate a motor vehicle over any public highway in the District (1) recklessly; or (2) at a rate of speed greater than is reasonable and proper, having regard to the width of the public highway, the use thereof, and the traffic thereon; or (3) so as to endanger any property or individual; or (4) so as unnecessarily or unreasonably to damage the public highway.

"(c) Any individual violating any provision of this section where the offense constitutes reckless driving shall, upon conviction for the first offense, be fined not less than $25 nor more than $100 or imprisoned not less than 10 days nor more than 30 days; and upon conviction for the second or any subsequent offense such individual shall be fined not less than $100 nor more than $1,000, and shall be imprisoned not less than 30 days nor more than one year, and the clerk of the court shall certify forthwith such conviction to the director, who shall thereupon revoke the operator's permit of such individual.

"(d) Any individual violating any provision of this section, except where the offense constitutes reckless driving,

shall, upon conviction for the first offense, be fined not less than $5 nor more than $25; upon conviction for the second offense, such individual shall be fined not less than $25 nor more than $100; upon conviction for the third offense or any subsequent offense such individual shall be fined not less than $100 nor more than $500, and shall be imprisoned not less than 30 days nor more than one year, and the clerk of the court shall certify forthwith such conviction to the director, who shall thereupon revoke the operator's permit of such individual."

Section 1 of the Code of Laws for the District of Columbia continues in force here "The common law, all British statutes in force in Maryland on the twenty-seventh day of February, eighteen hundred and one, * * * except insofar as the same are inconsistent with, or are replaced by, some provision of this code."

It is the contention of counsel for the District that the offense charged against Colts "was not the common law offense of reckless driving and that therefore his trial without a jury was authorized under Section 44 of the D. C. Code [fol. 16] as amended by Section 4 of the Traffic Act of March 3, 1925; 43 Stats. 1119." That section, as amended, reads as follows:

"That prosecution in the police court shall be on information by the proper prosecuting officer. In all prosecutions within the jurisdiction of said court in which, according to the Constitution of the United States, the accused would be entitled to a jury trial, the trial shall be by jury, unless the accused shall in open court expressly waive such trial by jury and request to be tried by the judge, in which case the trial shall be by such judge, * * *

"In all cases where the accused would not by force of the Constitution of the United States be entitled to a trial by jury, the trial shall be by the court without a jury, unless in such of said last-named cases wherein the fine or penalty may be more than $300, or imprisonment as punishment for the offense may be more than ninety days, the accused shall demand a trial by jury, in which case the trial shall be by jury. * * *"

It was an indictable offense at common law amounting to a breach of the peace, to drive "a carriage over a crowded

or populous street, at such a rate or in such a manner as to endanger the safety of the inhabitants." United States v. Hart, 1 Pet. C. C. 390, 392. Bowles v. District of Columbia, 22 App. D. C. 321, 323. The opinion in the Hart Case was written by Mr. Justice Washington.

The information in the present case charged Colts with operating a motor vehicle on one of the public streets of the District "recklessly * * * in such manner and condition so as to endanger property and individuals." He was, therefore, charged with an offense indictable at common law and amounting to a breach of the peace.

The third article of the Constitution provides that "the trial of all crimes, except in cases of impeachment, shall be by jury." It becomes necessary to determine whether the offense charged in this case is a "crime" within the meaning of the Constitution.

In Callan v. Wilson, 127 U. S. 540, 557, the court said:

"The third article of the Constitution provides for a jury [fol. 17] in the trial of 'all crimes, except in cases of impeachment.' The word 'crime' in its more extended sense, comprehends every violation of public law; in a limited sense, it embraces offenses of a serious or atrocious character. In our opinion, the provision is to be interpreted in the light of the principles which, at common law, determined whether the accused, in a given class of cases, was entitled to be tried by a jury. It is not to be construed as relating only to felonies, or offenses punishable by confinement in the penitentiary. It embraces as well some classes of misdemeanors, the punishment of which involves or may involve the deprivation of the liberty of the citizen." After a review of authorities, the court continues: "Without further reference to the authorities, and conceding, that there is a class of petty or minor offenses, not usually embraced in public criminal statutes, and not of the class or grade triable at common law by a jury, and which, if committed in this District, may, under the authority of Congress, be tried by the Court and without a jury, we are of opinion that the offense with which the appellant is charged does not belong to that class. A conspiracy such as is charged against him and his codefendants is by no means a petty or trivial offense. * * * Except in that class or grade of offenses called petty offenses, which, according to the common law, may be proceeded against summarily in any tri-

bunal legally constituted for that purpose, the guarantee of an impartial jury to the accused in a criminal prosecution, conducted either in the name, or by or under the authority of, the United States, secures to him the right to enjoy that mode of trial from the first moment, and in whatever court, he is put on trial for the offense charged."

In Schick v. The United States, 195 U. S. 65, Schick had been proceeded against by information to recover a penalty of $50 for knowingly purchasing or receiving for sale oleomargarine which had not been branded or stamped according to law. The question considered by the court, although not raised by Schick, was whether the waiver of a jury at the trial of the case was in conflict with the laws and Constitution of the United States. The court held that it was not, saying: "It will be noticed that the section character- [fol. 18] izes the act prohibited as an offense, and subjects the party to a penalty of fifty dollars. So small a penalty for violating a revenue statute indicates only a petty offense. *It is not one necessarily involving any moral delinquency.* (Italics ours.) The violation may have been the result of ignorance or thoughtlessness, and must be classed with such illegal acts as acting as an auctioneer or peddler without a license, or making a deed without affixing the proper stamp. That by other sections of this statute more serious offenses are described and more grave punishments provided does not lift this one to the dignity of a crime. Not infrequently a single statute in its several sections provides for offenses of different grades, subject to different punishments, and to prosecution in different ways. * * * This very statute furnishes an illustration. By one clause the knowingly selling of adulterated butter in any other than the prescribed form subjects the party convicted thereof to a fine of not more than one thousand dollars and imprisonment for not more than two years. An officer of customs violating certain provisions of the act is declared guilty of a misdemeanor and subject to a fine of not less than one thousand dollars nor more than five thousand dollars, and imprisonment for not less than six months nor more than three years. Obviously these violations of certain provisions of the statute must be classed among serious criminal offenses, and can be prosecuted only by indictment, while the violations of the statute in the cases

before us were prosecuted by information. *The truth is, the nature of the offense and the amount of punishment prescribed rather than its place in the statutes determine whether it is to be classed among serious or petty offenses, whether among crimes or misdemeanors.* (Italics ours.) Clearly both indicate that this particular violation of the statute is only a petty offense."

It thus appears that in the Callan Case it was ruled that the Constitutional provision for trial by jury "is to be interpreted in the light of the principles which at common law determined whether the accused in a given class of cases was entitled to a trial by jury"; that there is a class or grade of minor offenses not triable at common law by jury that may be proceeded against summarily in any [fol. 19] tribunal legally constituted for that purpose. In the Schick Case, it was pointed out that a penalty of $50 for violating a revenue statute "indicates only a petty offense", and that "it is not one necessarily involving any moral delinquency." The real test as to the grade of the offense, the court ruled, is "the nature of the offense and the amount of punishment prescribed."

The offense charged against Colts was not triable summarily at common law, being indictable. Blackstone 4 Com. 280, 281; State v. Glenn, 54 Md. 572, 600, where it was said that it has been a constant course of legislation in England "for centuries past, to confer summary jurisdiction upon justices of the peace for the trial and conviction of parties for minor and statutory police offenses."

That the common law offense of reckless driving is a crime within the Constitutional provision for a trial by jury is, we think, plain. Has the inherent character of that offense been changed by the statutory provision reducing the penalty for a first offense to a fine of not more than $100 or imprisonment of not more than thirty days? We think not. This offense being malum in se necessarily involves moral delinquency. It would be so "adjudged by the sense of a civilized community, whereas an act malum prohibitum is wrong only because made so by statute." State v. Horton, 139 N. C. 588, 592. One convicted of driving a vehicle in a crowded street so recklessly as to endanger human life would merit and receive the lasting condemnation of all right thinking people, and thus suffer greater punishment

than that prescribed by law. If by statute the grade of this serious common law crime can be changed to a petty offense, then it necessarily follows, we think, that in the same way the grade of the crime of murder, or any other crime, could be changed to a petty misdemeanor. The inevitable result would be the nullification of the Constitutional guaranty of trial by jury.

It would be an anomalous situation indeed if in a civil suit against Colts in the District of Columbia involving more than twenty dollars he could demand a jury trial as of right (7th Amendment) and yet could be deprived of that privilege in a prosecution for a common law offense involving his reputation and liberty.

[fol. 20] We repeat, it is the inherent nature or character of the offense, as well as the punishment prescribed, that should determine its class or grade, that is, whether it is a crime in the Constitutional sense or a petty offense. The Traffic Act under consideration furnishes an apt illustration. The provision that no vehicle shall be operated at a greater rate of speed than twenty-two miles per hour, except in outlying districts, etc., defines a mere police offense —a creation of the statute. U. S. v. Cella, 37 App. D. C. 433, 435. A violation of that provision would not necessarily involve any moral delinquency. That this was recognized by Congress is apparent from the fact that the penalty for a first offense was fixed at a fine of not less than $5 nor more than $25. Clearly, violation of such a statute must be classed as a petty offense subject to summary prosecution before a court without a jury.

In answer to the suggestion that it would be more convenient to try all cases involving traffic law violations before a court without a jury we quote the prophetic words of Blackstone when referring to summary proceedings authorized by acts of Parliament, as follows:

"And, however convenient these may appear at first (as doubtless all arbitrary powers, well executed, are the most convenient) yet let it be again remembered, that delays and little inconveniences in the forms of justice are the price that all free nations must pay for their liberty in more substantial matters; that these inroads upon this sacred bulwark of the nation are fundamentally opposite to the spirit of our Constitution; and that though begun in trifles, the

precedent may gradually increase and spread, to the utter disuse of juries in questions of the most momentous concern." Bk. 4, c. 27, 350.

Inasmuch as the punishment in the instant case is not infamous; U. S. v. Moreland, 258 U. S. 433, and a trial by jury may now be had in the Police Court; 43 Stats. 1119, the judgment will be reversed with costs and the cause remanded for a new trial.

Reversed.

[fol. 21] [File endorsement omitted.]

[fol. 22] In Court of Appeals of District of Columbia, January Term, 1930

No. 5050

William H. Colts, Plaintiff in Error,

vs.

District of Columbia

Judgment—Feb. 4, 1930

In Error to the Police Court of the District of Columbia

This cause came on to be heard on the transcript of the record from the Police Court of the District of Columbia and was argued by counsel. On consideration whereof, It is now here ordered and adjudged by this Court that the judgment of the said Police Court in this cause be and the same is hereby reversed with costs, and that this cause be and the same is hereby remanded to the said Police Court for a new trial.

Per Mr. Justice Robb, February 4, 1930.

[fol. 23] In Court of Appeals of the District of Columbia

[Title omitted]

Designation of Record—Filed Feb. 10, 1930

The Clerk of the Court of Appeals will please include the following on petition for certiorari to the Supreme

Court of the United States in the designation of record in this case:

1. The printed record in the Court of Appeals.
2. Argument of cause.
3. Opinion of the Court.
4. The judgment.
5. This designation.

William W. Bride, William W. Bride, Corporation Counsel, D. C. Robert E. Lynch, Robert E. Lynch Assistant Corporation Counsel, D. C., Attorneys for the District of Columbia.

Service of the above designation of record acknowledged this 10th day of February, 1930.

William O'Connell, Attorney for William H. Colts.

[File endorsement omitted.]

[fol. 24] Clerk's certificate to foregoing transcript omitted in printing.

SUPREME COURT OF THE UNITED STATES

ORDER ALLOWING CERTIORARI—Filed May 26, 1930

The petition herein for a writ of certiorari to the Court of Appeals of the District of Columbia is granted. And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.